IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1547 of 2005

Between:

I. Rajanna, s/o Bheemaiah,
M/s Ganesh Traders, R/o Dharmapuri, Karimnagar District.

... PETITIONER

AND

1 The Sub Inspector, Prohibition & Excise Station, Dharmapuri, Karimnagar District.
2 The Inspector, Prohibition & Excise Station, Dharmapuri, Karimnagar District.
3 The Deputy Commissioner of Prohibition & Excise , Karimnagar

Division, Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents 1 and 2 in seizing 480 Kgs of Black Jaggery, 100 Kgs of Alum and One Electronic Weighing Machine of "PHOENIX" made on 9-12-2004 under Crime No. 335/2004-2005 on the file of Prohibition & Excise Station, Dharmapuri, Karimnagar District, as illegal, arbitrary and without jurisdiction consequently direct the Respondents to return 480 Kgs of Black Jaggery, 100 Kgs of Alum and the Weighing Machine "PHOENIX" make in favour of the Petitioner.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

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O R D E R:

The petitioner is a kirana merchant at Dharmapuri in Karimnagar District. On 09.12.2004, the respondents 1 and 2 are said to have inspected his shop. On finding that there was 480 Kgs of Black Jaggery in 10 gunny bags and 100 Kgs of Alum in 2 gunny bags, they seized the same, on the suspicion that it is likely to be used in manufacture of illicit liquor. They have also seized the electronic weighing machine, under a panchanama prepared on the same day. Proceedings were initiated before the third respondent, under the relevant provisions of A.P.Excise Act. The petitioner challenges the seizure affected by the respondents 1 and 2.

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

Basically, Black Jaggery and Alum are not contraband, or prohibited items. They can be seized only when they are found to be used in manufacture of any illicit liquor. The question as to whether mere presence of the said items in a shop can gives raise to an inference of their being used for manufacture of illicit liquor, is a question which needs to be considered by the third respondent in the proceedings initiated before him, or in the subsequent proceedings. This Court is not inclined to interfere with the seizure of the said commodities at this stage. The petitioner can seek release of the said commodities by filing an appropriate application, before the third respondent.

Whatever may have been the justification in seizing the Black Jaggery and Alum from the petitioner, there does not exist any basis to seize the weighing machine. It only shows the high handedness and lawlessness on the part of the respondents 1 and 2. This Court takes a serious exception to the same. The respondents 1 and 2 cannot become law onto themselves. Strictly speaking, they are liable to be prosecuted for committing theft of the said machine, or to be proceeded departmentally for misuse of power and harassing the people. But for the

fact that the learned Government Pleader did not make any attempt to sustain the said action of respondents 1 and 2, this Court would have initiated proceedings against them in the writ petition itself.

For the foregoing reasons, the writ petition is partly allowed, and the respondents 1 and 2 are directed to hand over the weighing machine to the petitioner, within three days from the date of receipt of a copy of this order, and file compliance report before the third respondent. In case any lapse is noticed in this regard, it would straight away entail in proceedings against the respondents 1 and 2. There shall be no order as to costs.

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3rd February, 2005

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To

1 The Sub Inspector, Prohibition & Excise Station, Dharmapuri, Karimnagar District.
2 The Inspector, Prohibition & Excise Station, Dharmapuri, Karimnagar District.
3 The Deputy Commissioner of Prohibition & Excise,

Karimnagar Division, Karimnagar District.

4 Two C.Cs. to the Government Pleader for Proh.& Excise,

High Court buildings, Hyderabad (OUT)

5 Two C.D.copies